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TO RUEHC/SECSTATE WASHDC 5720
INFO RUEHKT/AMEMBASSY KATHMANDU 9409
RUEHLM/AMEMBASSY COLOMBO 8203
RUEHIL/AMEMBASSY ISLAMABAD 1932
RUEHNE/AMEMBASSY NEW DELHI 0341
RUEHAH/AMEMBASSY ASHGABAT 0171
RUEHTA/AMEMBASSY ALMATY 0091
RUEHDBU/AMEMBASSY DUSHANBE
RUEHNT/AMEMBASSY TASHKENT 0173
RUEHEK/AMEMBASSY BISHKEK 0058
RUEHCI/AMCONSUL KOLKATA 1047
RHEHNSC/NSC WASHDC

C O N F I D E N T I A L SECTION 01 OF 02 DHAKA 001890

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E.O. 12958: DECL: 12/03/2017
TAGS: [PGOV](#) [PHUM](#) [PREL](#) [PINR](#) [BG](#)
SUBJECT: SEDITION TRIAL AGAINST JOURNALIST (ONCE AGAIN) SET
TO BEGIN

REF: A. DHAKA 1057
[1](#)B. DHAKA 717
[1](#)C. DHAKA 681
[1](#)D. DHAKA 550
[1](#)E. DHAKA 413
[1](#)F. DHAKA 305

Classified By: Charge d'Affaires a.i. Geeta Pasi, reason 1.4(d)

[1](#)1. (C) SUMMARY. The sedition trial of journalist Salahuddin Shoaib Choudhury is percolating again, with a new trial start date set for December 5. There are two avenues for dismissal of the case: the government drops the charges, or Choudhury prevails in his appeal to the High Court Appellate Branch to quash the charges. Neither appears likely at the moment. A prominent Bangladesh lawyer, Amirul Islam, speculated on a third avenue: requesting the assistance of the Directorate General-Forces Intelligence (DGFI) to get the matter dropped. END SUMMARY.

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TRIAL DATE RESCHEDULED -- YET AGAIN -- FOR DECEMBER 5

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[1](#)2. (C) The sedition trial of journalist Salahuddin Shoaib Choudhury is now set to start on December 5 (reftels). The start of the case has been postponed numerous times since it was first scheduled to begin in September 2006. Most recently, the new trial judge in the case planned to start the trial on November 15, but Choudhury's lawyer argued that they still had a pending appeal before the High Court Appellate Branch.

[1](#)3. (C) Instead of automatically granting a postponement, as happened in the past, the trial judge questioned why Choudhury's lawyer had not sought a stay. The new prosecutor argued the case could not be postponed indefinitely, and asked the judge to revoke Choudhury's bail to speed up the trial process. The judge then threatened to remove Choudhury's bail and throw him back in jail unless his lawyer produced a letter from the Appellate Branch proving they had asked to schedule a hearing for the appeal.

[1](#)4. (C) The lawyer eventually brought a letter from the Appellate Branch saying it would be hearing the case in early December, and the judge extended the bail. He re-scheduled the trial start date for December 5, although there was no guarantee the Appellate Branch would hear the appeal by that

date.

15. (C) We met Choudhury on November 28 to discuss his case. Also present was a highly respected High Court lawyer, Barrister Amirul Islam. In the meeting, Choudhury said he felt his lawyers had mishandled his initial appeal to the High Court to dismiss the charges against him. He held out hope that the Appellate Branch would overturn the High Court's rejection of his petition to quash (dismiss) the charges. Former Canadian Justice Minister (and current Canadian MP) Irwin Cotler had prepared an amicus curiae brief to the Appellate Court arguing Choudhury's case, and Choudhury said he thought Dr. Cotler would come to Bangladesh in person to argue the case. However, when Barrister Islam asked if Choudhury's lawyers had made any request to the Court for Dr. Cotler to appear (as is required), Choudhury said no.

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THREE OPTIONS FOR GETTING RID OF THE CASE

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16. (C) After hearing Choudhury's description of the case, Barrister Islam gave three recommendations as to how best to get the case dropped:

A) The least likely option, in his opinion, was that the Appellate Branch would agree to dismiss the case. The Appellate Branch traditionally rules on narrow grounds, and after hearing Choudhury's description of how his lawyers handled the petition, Barrister Islam felt the lawyers had bungled the job and the Appellate Branch would probably side with the High Court.

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B) The U.S. and other foreign missions could persuade the government (specifically, the Home Ministry) that the case was causing damage to Bangladesh's reputation. Since a police officer is the primary complainant in the case, if he withdrew the charges, the case would automatically be dismissed. (NOTE: During the September 2007 visit of South/Central Asia Deputy Assistant Secretary John Gastright to Bangladesh, the Home Secretary brought Choudhury's case up himself, before we could raise it, indicating the government is aware of our interest. In the meeting, the Home Secretary blamed Choudhury's lawyers for failing to pursue a proper legal strategy.)

C) The Embassy could raise the issue informally with the Directorate General-Forces Intelligence (DGFI). He felt if DGFI understood the damage this case was causing Bangladesh abroad -- particularly at this sensitive time -- they would intervene to get the government to back off.

17. (C) Barrister Islam took POLOFF aside at one point to discuss the case. He said he was not interested in getting involved in the case since he was not entirely convinced Choudhury wanted the charges dropped. "He doesn't seem interested in doing what is legally necessary to have the case dismissed," he said. "He just doesn't seem to take it seriously." Afterwards, Barrister Islam told Choudhury he would review the case, and provide any advice he could, though he did not agree to represent him.

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A FRESH DISMISSAL PETITION?

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18. (C) Following the dinner, Choudhury told POLOFF his attorneys were preparing a fresh High Court petition should the Appellate Branch not rule in their favor. The fresh petition would accuse the original trial judge and prosecutor of having mishandled the initial framing of the charges in December 2007. Choudhury also told POLOFF that his congressional allies in the U.S. might hold up appropriations

-- including cyclone relief -- to Bangladesh if his case were to move forward. (NOTE: Choudhury's most outspoken U.S. supporter, Dr. Richard Benkin, recently launched a new effort to organize a boycott by U.S. companies of Bangladesh garment factories. ENDNOTE)

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COMMENT: TRIAL MOVING FORWARD?
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19. (C) COMMENT. The events of November 15, with the new trial judge and prosecutor threatening to revoke Choudhury's bail, indicate that the government is ambivalent about the case. All else aside, the charges against Choudhury are spurious, and a good defense attorney would likely have made short work of the prosecution's case. Should the Appellate Branch reject Choudhury's appeal -- as Barrister Islam and others familiar with the case believe is likely -- the trial could finally begin to move forward. Political pressure, rather than legal maneuverings, may be the more likely course for dismissal at this point. Post will be observing the trial when it is scheduled to begin on December 5. END COMMENT.
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